

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Antonio Burts, #194576,)	C/A No. 8:07-2856-HMH-BHH
)	
Plaintiff,)	
)	
)	
vs.)	OPINION & ORDER
)	
South Carolina Department of Corrections;)	
Director, Jon Ozmint;)	
Warden Tim Riley, Tyger River Correctional)	
Institution; David Tatunsky;)	
Mrs. NFN McCabe;)	
Sgt. NFN Forrest;)	
Sgt. NFN Clevenger;)	
Lt. NFN Rodger;)	
Mr. NFN Fowler;)	
Ms. NFN Maness; and)	
Mrs. J.O. Shield, est.,)	
)	
)	
Defendants.)	
)	

This is a civil action filed by a pro se state prisoner that has not come into proper form despite Plaintiff being ordered on August 27, 2007, and October 29, 2007, to bring the case into proper form.

In the October 29, 2007, Order, Plaintiff was informed that he had a **FINAL** twenty days to submit the service forms that had been requested from him two months before. Plaintiff was also specifically informed in both Orders that this case would be dismissed without prejudice if he failed to bring it into proper form.

Plaintiff has not complied with the terms of the first or the second proper-form Orders, and the final time for compliance has now passed. The Orders were mailed to Plaintiff at the address he provided and they have not been returned to the Court. Thus, it is presumed that the Plaintiff received the Orders, but has neglected to comply within the time permitted under the Orders.

Accordingly, this case is, hereby, dismissed without prejudice due to Plaintiff's failure to comply with this court's Orders and failure to prosecute the case. See Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a plaintiff fails to comply with "any order of the court."); see also Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal with prejudice appropriate where warning given); Chandler Leasing Corp. v. Lopez, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).*

IT IS SO ORDERED.

November 30, 2007
Greenville, South Carolina

s/Henry M. Herlong, Jr.
United States District Judge

NOTICE OF RIGHT TO APPEAL

The Plaintiff is hereby notified that he has the right to appeal this order within thirty (30)days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

* Under General Order, Misc. No. 3:07-5014-JFA, this dismissal without prejudice does not count as a "strike" for purposes of the "three strikes" provision of 28 U.S.C. § 1915(g). If Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk's Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).